



Australian Government

International Air Services Commission

DETERMINATION

Determination: [2009] IASC 119
The Route: Thailand
The Applicant: Virgin Blue International Airlines Pty Ltd
(V Australia) (ACN 125 580 823)
Public Register: IASC/APP/200928

1 The application

1.1 On 14 August 2009, V Australia applied for an allocation of seven frequencies per week of capacity on the Thailand route. The carrier advised that it proposed to introduce progressively daily services using 361 seat B777-300ER aircraft. The capacity is planned to be fully utilised by 1 April 2010. V Australia sought a five-year determination.

1.2 The Commission published a notice on 18 August 2009, inviting other applications for capacity. No applications were received. All material supplied by the applicant is filed on the Register of Public Documents.

2 Provisions of relevant air services arrangements

2.1 Under the Australia – Thailand air services arrangements, the designated airlines of Australia may operate services with any type of aircraft between points in Australia via intermediate points to points in Thailand. The Register of Available Capacity shows that there are the equivalent of 33.8 B747 weekly services available for allocation. There is an aircraft substitution formula within the arrangements. This shows that a B777-300ER aircraft is equivalent to 0.90 of a B747.

3 Commission's consideration

3.1 V Australia is the only applicant for capacity. Under paragraph 6.2 of the Minister's Policy Statement (No.5), of 19 May 2004, the Commission is required only to apply the criteria in paragraph 4 of the policy statement. Under paragraph 4, the use of entitlements by an Australian carrier that is reasonably capable of obtaining the necessary approvals and of implementing its proposals is of benefit to the public. The Commission has previously allocated capacity to V Australia on the United States and the South Africa routes. The carrier's services on the United States route are well established and it plans to start flights on the South Africa route in early 2010. The airline is clearly capable of obtaining the necessary approvals and of implementing the proposed operations. This means that there is public benefit arising from the use of the entitlements.

3.2 Under the aircraft substitution arrangements, V Australia will require 6.3 B747 equivalent weekly services in order to operate the planned daily B777-300 services. The Commission will allocate to V Australia the capacity sought by it.

4 Determination allocating capacity on the Thailand route to V Australia ([2009] IASC 119)

4.1 The Commission makes a determination in favour of V Australia, allocating 6.3 B747 equivalent services of capacity per week in each direction on the Thailand route under the Australia – Thailand air services arrangements.

4.2 The determination is for five years from the date of the determination.

4.3 The determination is subject to the following conditions:

- V Australia is required to fully utilise the capacity from no later than 30 April 2010, or from such other date approved by the Commission;
- only V Australia is permitted to utilise the capacity;
- V Australia is not permitted to utilise the capacity to provide services jointly with another Australian carrier or any other person without the approval of the Commission;
- changes in relation to the ownership and control of V Australia are permitted except to the extent that any change:
 - results in the designation of the airline as an Australian carrier under the Australia – Thailand air services arrangements being withdrawn; or
 - has the effect that another Australian carrier, or a person (or group of persons) having substantial ownership or effective control of another Australian carrier, would take substantial ownership of V Australia or be in a position to exercise effective control of V Australia, without the prior consent of the Commission, and
- changes in relation to the management, status or location of operations and Head Office of V Australia are permitted except to the extent that any change would result in the airline ceasing to be an airline designated by the Australian Government for the purposes of the Australia – Thailand air services arrangements.

Dated: 25 August 2009

John Martin
Chairman

Philippa Stone
Member

Ian Smith
Member